

VZCZCXYZ0001
RR RUEHWEB

DE RUEHGT #0501/01 1472011
ZNR UUUUU ZZH
R 272011Z MAY 09
FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC 7537
INFO RUEHC/DEPT OF LABOR WASHDC

UNCLAS GUATEMALA 000501

SENSITIVE
SIPDIS

DOL FOR OTLA
DEPT FOR WHA/CEN, WHA/EPSC, EEB/BTA, AND DRL/ILCSR
DEPT PLEASE PASS TO USTR CARLOS ROMERO AND LAURA BUFFO

E.O. 12958: N/A
TAGS: [ELAB](#) [ECON](#) [ETRD](#) [PGOV](#) [PHUM](#) [KDEM](#) [PREL](#) [KJUS](#) [GT](#)
SUBJECT: GOG UPDATES USG ON CAFTA-DR LABOR SUBMISSION

REF: A. GUATEMALA 169
[1](#)B. GUATEMALA 145
[1](#)C. 08 GUATEMALA 1479
[1](#)D. 07 GUATEMALA 115
[1](#)E. 07 GUATEMALA 2172

[1](#)1. (U) Summary: On May 13, Embassy hosted a DVC with the GOG and USG inter-agency to discuss progress on the CAFTA-DR Labor Submission Report and to follow up on a November 2008 DVC (ref C) and demarches delivered by the Ambassador and Embassy pol/econ officers in February 2009 (refs A, B). Senior GOG officials provided updates on the five cases highlighted in the submission, reporting notable progress in the Pedro Zamora murder case and Avandia case. DOL Deputy Under Secretary for International Affairs Sandra Polaski encouraged the GOG to take further steps to resolve the cases in the complaint and also to address underlying systemic issues. She urged the GOG officials to use their authority to develop systemic measures to induce greater employer compliance with labor laws. End Summary.

[1](#)2. (U) On May 13, Embassy hosted a DVC with the GOG and USG to discuss progress on the CAFTA-DR Labor Submission Report. Participants included DOL Deputy Under Secretary Polaski, DCM David Lindwall, Guatemalan Ambassador Francisco Villagran, Minister of Economy Ruben Morales, Vice Foreign Minister Lars Pira, Vice Labor Minister Mario Illescas, Labor Inspector General Giovanni Soto, Ministry of Government Special Advisor Alma Luz Guerrero, and representatives of the Guatemalan Social Security Institute.

[1](#)3. (U) DUS Polaski began by thanking the GOG for its April 27 written update on the five cases highlighted in the CAFTA-DR Labor Submission, and expressing satisfaction that one of the two suspects in the January 2007 murder of port union leader Pedro Zamora (ref D) had been arrested and formally charged. A GOG inter-agency committee provided further updates on the five cases. Noe Moya, Chief Prosecutor in the Public Ministry's Unit for Crimes Against Journalists and Unionists, reported that the Court of First Criminal Instance in Escuintla would hold a preliminary hearing in the Zamora case the following day, and that they were still looking for the other suspect. He noted that he had not shared this information with leaders of the port union due to legal restrictions on sharing information on ongoing investigations with the public, but offered to share the results of the hearing with DUS Polaski and Embassy.

[1](#)4. (U) Ministry of Government Special Advisor Guerrero said the Ministry has maintained regular communication with the Banana Workers' Union of Izabal (SITRABI) and is continuing to investigate the September 2007 murder of SITRABI leader Marco Tulio Ramirez Portela (ref E). The Ministry has asked the Supreme Electoral Tribunal for the names of the individuals who were working at the voting table on the day

that Ramirez was allegedly threatened at the polling center, but they have not yet received the information. Regarding security, Guerrero confirmed that the Ministry of Government has authorized perimeter security of the banana farm but not personal security for SITRABI members.

15. (U) Labor Inspector General Soto stated that Avandia had offered its workers two options: reinstatement with full back pay, or no reinstatement with severance pay. He reported that all of the dismissed workers in question had been reinstated with back pay and that the vice president of Avandia had apologized publicly. DUS Polaski characterized this as "a very positive development," but noted that the USG will maintain oversight of the workers to ensure that they are not subjected to reprisals and that lines of communication between the employer and workers remain open. Soto assured her that the Ministry of Labor regularly monitors not only Avandia but other maquilas as well. With regard to Fribo, Soto said he had confirmed a meeting for the following week with Modas Dae Hang, which operates the Fribo factory. With regard to Alimentos Sumar, he said he did not have any information.

16. (U) Vice Minister of Labor Mario Illescas reported advances in the overall labor environment, citing recent official statistics. He stated that 27 collective bargaining agreements were signed in 2008 and 16 so far in 2009. The Ministry authorized 53 new labor unions in 2008 and 26 unions so far in 2009. In addition, from January to April of this year, the Ministry registered a total of 295 labor complaints filed by individuals, 33 group complaints representing a total of 908 workers, 485 labor court hearings, and 55 labor-management settlements, representing a total of Q572,741.73 (approx. USD 71,593) in worker benefits.

17. (U) DUS Polaski stressed that the new administration takes very seriously labor rights in our trade agreements and that this is the first case brought under CAFTA-DR. She urged the GOG to take further steps to resolve the cases in the complaint as well as to address underlying systemic issues, including employer non-compliance with labor laws. She urged the GOG to utilize powers accorded it by law to effect systemic improvements that will induce greater compliance by employers. She expressed concern over violence against unionists and noted that the USG will continue to closely watch the two murder cases. She welcomed establishment of a Special Prosecutor's Office in the Public Ministry to focus on crimes against unionists, and encouraged proactive, preventive efforts to safeguard vulnerable union leaders. Regarding next steps, DUS Polaski stated that DOL plans to conduct a final assessment of progress to date on June 30 to determine by July 15 (the end of the stipulated 180-day review period) whether further action, including Cooperative Labor Consultations under CAFTA-DR, is warranted.

18. (SBU) Comment: While there has been notable progress in the Avandia and the port union cases, it is not likely that the GOG will be able to resolve the systemic issues prior to the end of the 180-day review period. In a country where violence has become the norm, not the exception, and where impunity and corruption are rampant, improving labor compliance is a serious challenge that requires not only political will, inter-agency cooperation and international pressure, but a significant change in attitude among local employers, an effort that may take years.
McFarland